

REMARKS/ARGUMENTS

The claims are 2-14, with claims 15-23 having been withdrawn from consideration by the Examiner as directed to a nonelected invention. Claims 2-14 have been amended to improve their form or to delete reference numerals. Reconsideration is expressly requested.

Claims 2-14 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Particularly, claims 2-3, 5, 6, 8-9 and 10-13 were rejected as being indefinite for citing a preferred range within a broader range within the same claim.

In response, Applicants have amended the claims, *inter alia*, to remove the recitation of a narrower range within a broader range within the same claim. Specifically, claims 2 and 3 have both been amended to delete the phrase beginning with "preferably". Claims 5, 8, and 11-13 have each been amended to delete the phrase beginning with "in particular". Claims 6 and 9 have each been amended to delete "carbon". Claim 13 has also been amended to delete the phrase beginning with "for example".

Claim 10 has also been amended to use "consisting of" instead of "comprising" with regard to the Markush group recited therein.

Claim 13 has also been amended to replace "it" with "said first peripheral coating" to more clearly define the invention.

Independent claim 12 has also been amended to more specifically refer to "a matrix element" and "at least one phase element having a phase selected from the group consisting of a hard phase and a soft phase" in order to more clearly define the invention. Claims 2, 4, and 6-11, which depend on claim 12 directly or indirectly, have correspondingly been amended to refer to "the at least one phase element" or "the phase" of independent claim 12.

Claim 4 was amended to provide the American spelling of the word "aluminum" and to delete the British spelling of the word.

Accordingly, it is respectfully submitted that claims 2-14 particularly point out and distinctly claim the subject matter which Applicants regard as their invention, and it is respectfully requested that the Examiner withdraw his rejections of the claims under 35 U.S.C. § 112, second paragraph.

Claims 2-4, 6, and 8-12 were rejected under 35 U.S.C. 102(e) as being anticipated by or alternatively under 35 U.S.C. 103(a)

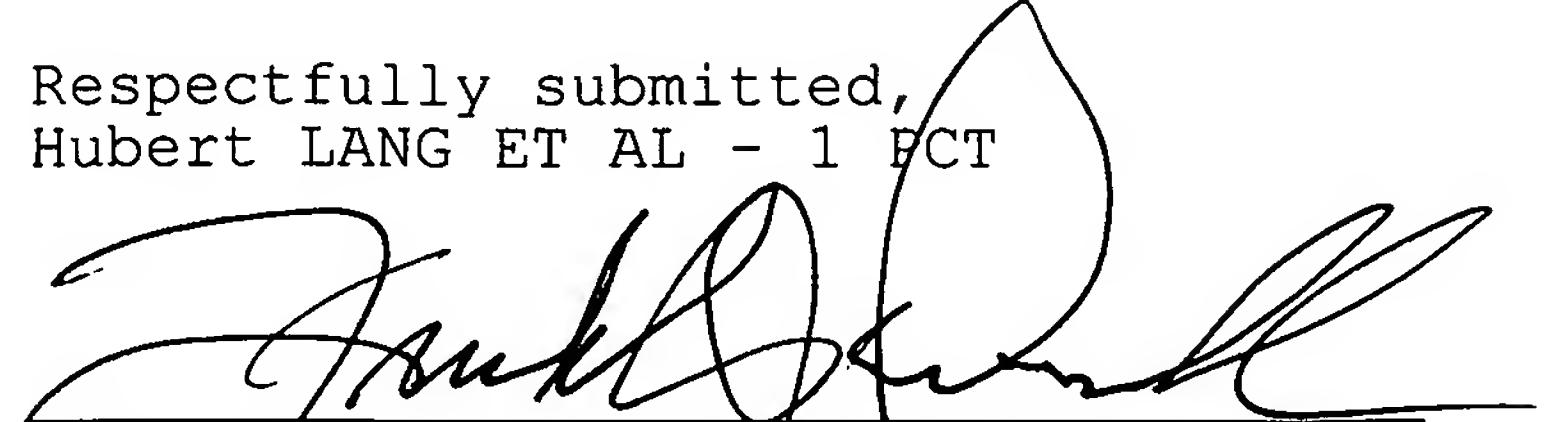
as obvious over *Raybould et al. U.S. Patent Application Publication No. 2006/0093736*. Claims 5, 7, and 13-14 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Raybould et al.*

This rejection is respectfully traversed.

It is respectfully submitted that the Examiner has rejected the claims using a reference, *Raybould et al. U.S. Patent Application Publication No. 2006/0093736*, that is not prior art under 35 U.S.C. § 102(e) with regard to the present application. *Raybould et al.* has a filing date of October 29, 2004. The present application claims priority under 35 U.S.C. § 365 from PCT/AT2004/000338 which was filed on October 5, 2004, and claims priority under 35 U.S.C. § 119 of Austrian Application No. AT 1589/2003 which was filed on October 8, 2003. The October 5, 2004 filing date of the International application is prior to the October 29, 2004 filing date of *Raybould et al.* Accordingly, *Raybould et al.* is not available under 35 U.S.C. 102(e) and is not available under 35 U.S.C. 103(a) to be cited against the present claims of the application. As *Raybould et al.* is not prior art, it is respectfully submitted that the application is now in condition for allowance.

In summary, claims 2-14 have been amended. In view of the foregoing it is respectfully requested that the claims be allowed and that this application be passed to issue.

Respectfully submitted,
Hubert LANG ET AL - 1 PCT

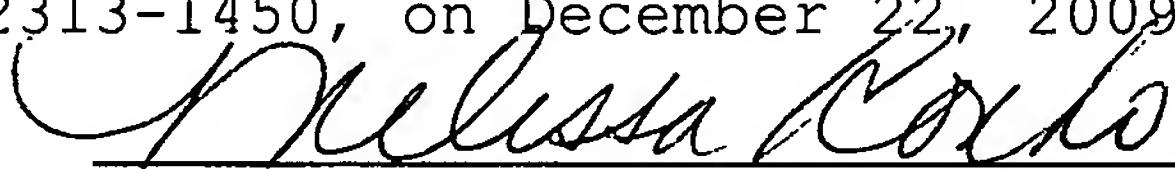


Frederick J. Dorchak, Reg. No. 29,298
Caleb D. Wilkes, Reg. No. 60,873
Attorneys for Applicants

COLLARD & ROE, P.C.
1077 Northern Boulevard
Roslyn, New York 11576
(516) 365-9802

FJD:cdw
Enclosures

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on December 22, 2009.



Melissa Konko

R:\Patents\L\LANG ET AL-1 PCT\12-09 Amendment in response to first OA.wpd